

09-01-05

*HW*

PTO/SB/21 (04-04)

Approved for use through 07/31/2006. OMB 0651-0031  
U.S. Patent and Trademark Office: U.S. DEPARTMENT OF COMMERCE

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	Application Number	10/686,506
	Filing Date	October 15, 2003
	First Named Inventor	Milligan et al.
	Art Unit	1744
	Examiner Name	Terrence R. Till
Total Number of Pages in This Submission	Attorney Docket Number	0275R-000799

ENCLOSURES (check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form  <input type="checkbox"/> Fee Attached  <input type="checkbox"/> Amendment / Reply  <input type="checkbox"/> After Final  <input type="checkbox"/> Affidavits/declaration(s)  <input type="checkbox"/> Extension of Time Request  <input type="checkbox"/> Express Abandonment Request  <input type="checkbox"/> Information Disclosure Statement  <input type="checkbox"/> Certified Copy of Priority Document(s)  <input type="checkbox"/> Response to Missing Parts/ Incomplete Application  <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s)  <input type="checkbox"/> Licensing-related Papers  <input type="checkbox"/> Petition  <input type="checkbox"/> Petition to Convert to a Provisional Application  <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address  <input type="checkbox"/> Terminal Disclaimer  <input type="checkbox"/> Request for Refund  <input type="checkbox"/> CD, Number of CD(s) ____	<input type="checkbox"/> After Allowance Communication to Technology Center (TC)  <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences  <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)  <input type="checkbox"/> Proprietary Information  <input type="checkbox"/> Status Letter  <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):  <b>Petition to Make Special Because of Actual Infringement, Statement by Attorney in Support of Petition, and return postcard</b>
<div style="border: 1px solid black; padding: 5px; width: fit-content;">Remarks</div>		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT			
Firm or Individual name	Harness, Dickey & Pierce, P.L.C.	Attorney Name Michael D. Zalobsky	Reg. No. 45,512
Signature			
Date	August 31, 2005		

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or printed name	Claudia J. Richard	Express Mail Label No.	EV 717 345 177 US
Signature		Date	August 31, 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

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# **FEE TRANSMITTAL** **for FY 2005**

Effective 10/01/2004. Patent fees are subject to annual revision.

Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 130

## Complete if Known

Application Number	10/686,506
Filing Date	October 15, 2003
First Named Inventor	Milligan
Examiner Name	Terrence R. Till
Art Unit	1744
Attorney Docket No.	0275R-000799

## METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit card ☐ Money ☐ Other ☐ None  
 Order
☒ Deposit Account:Deposit  
Account  
Number

02-2548

Deposit  
Account  
Name

Black &amp; Decker (U.S.) Inc.

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments  
☒ Charge any additional fee(s) or any underpayment of fees under 37 CFR 1.16 and 1.17

☐ Charge fee(s) indicated below, except for the filing fee  
 to the above-identified deposit account.

## FEE CALCULATION

## 1. BASIC FILING FEE

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	790	2001	395	Utility filing fee	
1002	350	2002	175	Design filing fee	
1003	550	2003	275	Plant filing fee	
1004	790	2004	395	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

SUBTOTAL (1)

(\$ 0)

## 2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims		-20 **	=	0	X	Fee from below	=	0	Fee Paid
Independent Claims		-3 **	=	0	X		=	0	
Multiple Dependent			X		=	0			

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	50	2202	25	Claims in excess of 20
1201	200	2201	100	Independent claims in excess of 3
1203	360	2203	180	Multiple dependent claim, if not paid
1204	200	2204	100	** Reissue independent claims over original patent
1205	50	2205	25	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2)

(\$ 0)

\*\*or number previously paid, if greater; For Reissues, see above

## FEE CALCULATION (continued)

## 3. ADDITIONAL FEES

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet.	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for <i>ex parte</i> reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	120	2251	60	Extension for reply within first month	
1252	450	2252	225	Extension for reply within second month	
1253	1020	2253	510	Extension for reply within third month	
1254	1590	2254	795	Extension for reply within fourth month	
1255	2160	2255	1080	Extension for reply within fifth month	
1401	500	2401	250	Notice of Appeal	
1402	500	2402	250	Filing a brief in support of an appeal	
1403	1000	2403	500	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	500	2452	250	Petition to revive - unavoidable	
1453	1500	2453	750	Petition to revive - unintentional	
1501	1400	2501	700	Utility issue fee (or reissue)	
1502	800	2502	400	Design issue fee	
1503	1100	2503	550	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Processing fee under 37 CFR 1.17 (q)	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	790	2809	395	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	790	2810	395	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	790	2801	395	Request for Continued Examination (RCE)	
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify) Petition to Make Special

130


\*Reduced by Basic Filing Fee Paid

SUBTOTAL (3)

(\$ 130)

## SUBMITTED BY

## Complete (if applicable)

Name (Print/Type)	Michael D. Zarobsky	Registration No. (Attorney/Agent)	45,512	Telephone	248-641-1600
Signature				Date	August 31, 2005



**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No.: 10/686,506  
Filing Date: October 15, 2003  
Applicant: Milligan et al.  
Group Art Unit: 1744  
Examiner: Terrence R. Till  
Title: HAND-HELD CORDLESS VACUUM CLEANER  
Attorney Docket: 0275R-000799

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Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

**PETITION TO MAKE SPECIAL BECAUSE OF ACTUAL INFRINGEMENT**

Sir:

Applicant hereby petitions to make this application special because of actual infringement.


Accompanying this petition is:

- (a) a Statement by Attorney in Support of Petition to Make Special Because of Actual Infringement; and
- (b) a fee transmittal (in duplicate) authorizing the Director to charge the petition fee of \$130.00 to Deposit Account 02-2548.

Prompt and favorable consideration of this petition is respectfully requested. If the Office believes that personal communication will expedite prosecution of this application, the Office is invited to telephone the undersigned at (248) 641-1600.

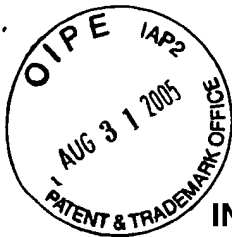
Respectfully submitted,

Dated: August 31, 2005

By:   
\_\_\_\_\_  
Michael D. Zalobsky  
Reg. No. 45,512

HARNESS, DICKEY & PIERCE, P.L.C.  
P.O. Box 828  
Bloomfield Hills, Michigan 48303  
(248) 641-1600

MDZ/CR



**PATENT**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No.: 10/686,506  
Filing Date: October 15, 2003  
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Attorney Docket: 0275R-000799

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Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

**STATEMENT BY ATTORNEY IN SUPPORT OF PETITION TO MAKE SPECIAL  
BECAUSE OF ACTUAL INFRINGEMENT**

Sir:

I, Michael D. Zalobsky, am a practitioner in this case and make the following statements:

- (a) That I am an attorney registered to practice before the Office;
- (b) That there is an infringing device actually on the market (Shark SV736 15.6 Volt Cordless Hand Vac with Motorized Brush and Twister Technology);
- (c) That I have made a rigid comparison of the alleged infringing device with the claims of the application and that in my opinion, some of the claims are

unquestionably infringed;

(e) That I have caused to be made a careful and thorough search of the prior art and that all such material has been provided to the Examiner in Information Disclosure Statements filed March 31, 2004 and April 8, 2004; and

(d) That I believe all the claims previously pending in this application are allowable.

Respectfully submitted,

Dated: August 31, 2005

By: 

Michael D. Zalobsky  
Reg. No. 45,512

HARNESS, DICKEY & PIERCE, P.L.C.  
P.O. Box 828  
Bloomfield Hills, Michigan 48303  
(248) 641-1600

MDZ/CR